



China alert

Tax and regulatory developments

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New measures on foreign exchange to support the development of foreign trade in Guangdong

In Brief

- New measures from the Guangdong branch of the State Administration of Foreign Exchange (SAFE) seek to facilitate foreign trade by extending the deadlines for registering foreign exchange (forex) collection and applying for VAT refunds; encouraging domestic sales of export goods; relaxing controls on cross-city foreign exchange payments; and simplifying registration procedures for forex collections that exceed the threshold.

Relevant regulation discussed in this issue:

Notice on Certain Measures to Support the Development of Foreign Trade in Guangdong, Yuehuifa [2009] No. 55, issued by the Guangdong branch of the State Administration of Foreign Exchange on 22 May 2009 (Circular 55)

Background

The global financial crisis has significantly affected enterprises with import and export businesses in Guangdong, with many facing difficulties in foreign exchange (forex) matters. Based on measures issued by the central SAFE, the Guangdong branch of the SAFE has announced five measures to help enterprises to deal with these challenges.

Main content

The main changes in Circular 55 include:

Facilitation measures	Existing policy	Circular 55
Extending the deadline for registering forward forex collections	Deadline: Within 60 days of the date of customs export declaration	New deadline: Within 180 days of the date of customs export declaration <u>Requirements:</u> - Enterprises must have had no penalties for violating forex verification rules in the previous two years

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Facilitation measures	Existing policy	Circular 55
		<ul style="list-style-type: none"> - The accumulated amount of overdue non-verified forex should be no more than USD 2 million
Relaxing Value Added Tax (VAT) refund issues on overdue forex verification	Enterprises applying for a VAT refund should provide Forex Verification Certificates to the tax bureaus within 210 days of the date of customs export declaration, otherwise the export sales could be deemed as domestic sales and subject to VAT	<p>If the Forex Verification Certificate cannot be provided in time (i.e. within 210 days), enterprises may still apply to their responsible tax bureaus and SAFE for the VAT refund</p> <p><u>Requirements:</u></p> <ul style="list-style-type: none"> - Only for exports from 1 January 2008 onwards - The forex must be collected within 180 days of the date of customs export declaration - The forex verification must have been overdue due to system problems (e.g. re-submit)
Encouraging domestic sales of export goods	Deferred payment for imports cannot exceed 30%	Export enterprises making domestic sales can apply for a percentage higher than 30% if necessary
	N/A	Contract processing enterprises can make forex payments after RMB revenue is collected
Relaxing controls on procedures for cross-city forex payment (only applicable to cash-on-delivery)	Enterprises should register and verify forex for each cross-city forex payment separately	Enterprises can register several forex payments at once and apply for a Forex Verification Certificate monthly
Simplifying registration procedures for forex collections exceeding the threshold	Enterprises need to provide the original Forex Verification Copy of the customs declaration form with a customs stamp	Enterprises may provide other original copies of the customs declaration form with a customs stamp instead of the original Forex Verification Copy.

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KPMG advice

- Cash flow is vital to enterprises' operations. Enterprises that cannot collect revenue from overseas customers because of the current global downturn risk violating forex regulations. If they cannot perform the forex verification procedures then export sales could be deemed domestic sales, making them subject to VAT at 17 percent.

The new measures in Guangdong offer incentives, but enterprises should also consider restructuring their operational mode. They could, for example, consider selling through related overseas trading companies in order to reduce the burden of forex collection problems.

- Whether contract processing enterprises can sell domestically in China has not always been clear. Circular 55 indicates that it is feasible in terms of forex policy, but enterprises should still consider the relevant tax and Customs matters.

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